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REMARKS/ARGUMENTS

Reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above amendments and remarks that follow.

Claims 1-16 and 18-27 are pending in the application. Claim 17 has been cancelled without prejudice or disclaimer. Claim 15 has been amended to maintain consistency in claim terminology. Claim 16 has been amended to correct a minor typographical error. Applicants respectfully submit that no new matter is introduced by these amendments.

The Examiner objects to the specification, drawings, and claim 17 due to an alleged lack of teaching of the subject matter of claim 17 (the Office Action refers to claim 15 but describes the subject matter of claim 17). In order to expedite prosecution of the present application, Applicants have cancelled claim 17, thus obviating the objection to both the drawings and the specification. Accordingly, Applicants respectfully request reconsideration and withdrawal of all objections relating to claim 17.

Claims 15-17 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner objects to the term "inner central portion" in claim 15 as lacking antecedent basis. As noted above, Applicants have amended claim 15 to clarify terminology. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,889,144 to Tateno *et al.* in view of U.S. Patent No. 5,746,230 to Arterbery, and further in view of one or more additional references for certain claims. The Examiner relies upon the Tateno reference as disclosing a tobacco rod and a filter element, the filter element comprising a breakable capsule contained within a section of the filter material, but admits that Tateno fails to teach an adsorbent material positioned between the first section of filter material and the tobacco rod. The Examiner relies upon Arterbery as disclosing filters having multiple plugs abutting one another, the different plugs differing in density or other characteristics. Applicants respectfully traverse all rejections based on the combination of Tateno and Arterbery.

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The present invention relates to filtered smoking articles, such as cigarettes, possessing filter elements. The filter element of the invention comprises an adsorbent material and at least one breakable capsule positioned in a section of filter material distal from the tobacco rod and downstream from the adsorbent material. Thus, as embodied in claim 1, the claimed filter comprising a first longitudinally extending section of filter material positioned at the end of the filter element distal from the tobacco rod, a breakable capsule within that section of filter material, and an adsorbent material positioned between the first section of filter material and the tobacco rod. Similarly, claim 27 is directed to a filter configuration wherein a breakable capsule is positioned in a compartment in a first section of filter material distal from the tobacco rod and an adsorbent material in granular form is present in a compartment between the filter material containing the breakable capsule and the tobacco rod. As noted in the specification, it has been determined that positioning the breakable capsule downstream from the adsorbent material allows the smoker to selectively adjust the flavor of the cigarette and, in particular, alter any negative flavor attributes caused by the presence of the adsorbent. Such a filter configuration is neither taught nor suggested in the cited references.

The Tateno reference merely suggests that flavor-containing capsules may be positioned in a centrally located cavity in a filter segment (see Figs. 1-4). Tateno also suggests that "destruction-accelerator particles" can be mixed with the flavor particles in order to accelerate their destruction (column 3, lines 27-41). Active carbon particles are listed as an exemplary type of destruction-accelerator particle. Thus, the Tateno reference already suggests the use of an adsorbent material, although the suggested function is destruction of the flavor particles rather than adsorption of gaseous components of smoke.

The Arterbery reference adds nothing to the Tateno disclosure. Arterbery merely suggests that a filter can be constructed so as to have a cavity between two filter plugs, the cavity being filled with charcoal particles. However, the Tateno reference already describes a filter segment comprising an interior compartment filled with a particulate matter, which may include carbon particles. Thus, the Arterbery reference really adds nothing to the Tateno disclosure.

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In contrast to the teachings of the cited art, the present invention is derived from the understanding that the relative position of adsorbent particles and a flavor-generating breakable capsule is important. As noted in all claims, the adsorbent material must be located between the breakable capsule and the tobacco rod such that the breakable capsule can modify any negative sensory characteristics associated with the presence of the adsorbent due to its positioning downstream from the adsorbent material. Such a configuration is clearly neither taught nor suggested in the combination of Tateno and Arterbery. If anything, the only suggestion from these two references is to combine the adsorbent and the flavor capsules in the same central cavity. For at least this reason, reconsideration and withdrawal of all rejections based on the combination of Tateno and Arterbery is respectfully requested.

Claims 1-3 and 15-27 stand rejected as obvious over U.S. Patent Publication 2004/0261807 to Dube *et al.* in view of the above-described Arterbery reference. The Examiner relies upon the Dube publication as describing a cigarette comprising a breakable capsule and again relies upon Arterbery as teaching that it is conventional to form a cigarette from two plugs with a space therebetween, the space being filled with an adsorbent. Applicants respectfully traverse this rejection.

Again, the cited combination of references fails to teach or suggest the relative position of adsorbent and breakable capsule as presently claimed. The cited published application is directed to a filtered cigarette possessing at least one breakable capsule in its filter element, particularly within a central cavity within the filter element. As noted above, the Arterbery reference merely describes a conventional plug/space/plug filter arrangement, wherein the space between the two filter plugs can be filled with an adsorbent. Even if these two references are combined, there is nothing to lead one of ordinary skill in the art to configure a filter element as presently claimed. Specifically, there is nothing to lead one of skill in the art to create a filter element wherein the breakable capsule is downstream from the adsorbent material. The embodiments shown in the Dube publication illustrate various filters wherein the breakable capsule is centrally located within the filter element. There is nothing in either reference to suggest the precise arrangement presently claimed. If anything, particularly in light of the

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teachings of Tateno, one of ordinary skill in the art would be inclined to position both a breakable capsule and an adsorbent material in the same central compartment in a filter element. Accordingly, Applicants respectfully request reconsideration and withdrawal of all rejections based on the combination of the Dube and Arterbery references.


The Office Action also provisionally rejects claims 1-3 and 15-27 under the judicially created doctrine of obviousness-type double patenting as being patentable over claims of the above-referenced published patent application in view of the Arterbery reference. For the same reasons set forth above, the claims of the present invention are patentably distinct from the claims of the Dube patent application because the claims of the Dube patent application do not lead one of ordinary skill in the art to a filter design wherein the breakable capsule is positioned in a filter segment that is downstream from an adsorbent material. Even combined with the teachings of Arterbery, there simply is no suggestion to position a breakable capsule in the mouth-end filter segment of a filter and position an adsorbent material within a compartment upstream from the breakable capsule. In fact, since the Dube reference describes a central cavity as a preferred embodiment for placing the breakable capsule and the Arterbery reference describes a central cavity for placing the adsorbent, if anything, the combination of the two references would lead one of skill in the art to create a single cavity centrally located within the filter that contains both the breakable capsule and the adsorbent material. It is also noted that this would create an arrangement similar to the Tateno disclosure discussed above. Such an arrangement is not encompassed by the presently claimed invention, which requires the breakable capsule to be downstream from the adsorbent material. In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejection.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

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therefore (including fees for not addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

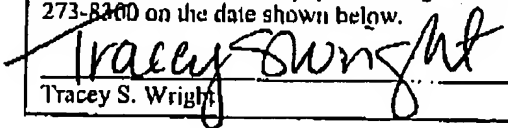
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12/21/05
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